

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MICHAEL C. ROBERSON,
#02167695,

Plaintiff,

V.

NORRIS JACKSON, et al.,

Defendants.

Case No. 6:20-cv-188-JDK-KNM

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Michael C. Roberson, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

On April 19, 2023, Judge Mitchell issued a Report and Recommendation recommending that the Court dismiss Plaintiff's claims against Defendant Sherry Dickens with prejudice pursuant to 28 U.S.C. § 1915A for failure to state a claim upon which relief can be granted. Docket No. 197. Plaintiff filed objections. Docket No. 201.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

The Court overrules Plaintiff's objections. He wholly fails to respond to the substance of the Magistrate Judge's Report. Instead, Plaintiff maintains that he could not have failed to state a claim against Defendant Dickens because she was not served and violated his constitutional rights under the Eighth Amendment. Plaintiff has not identified an error in the Report. Accordingly, based on a de novo review of the objected-to portions of the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit.

Also before the Court are Plaintiff's motions for default judgment. Docket Nos. 188, 194. On May 4, 2023, Judge Mitchell issued a Report and Recommendation recommending that the Court deny both motions. Docket No. 200. A copy of the Report was sent to Plaintiff, but no objections have been filed.


Because objections have not been filed, the Court reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Having reviewed the

Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law in the Report.

For the reasons stated above, the Court hereby **ADOPTS** the Reports of the Magistrate Judge (Docket No. 197, 200) as the opinion of the District Court. Plaintiff's claims against Defendant Dickens are **DISMISSED** with prejudice for failure to state a claim upon which relief can be granted. Further, Plaintiff's motions for default judgment (Docket Nos. 188, 194) are **DENIED**.

Signed this

Oct 6, 2023



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE